

REMARKS

The Official Action of May 11, 2009 and the prior art cited and relied upon therein have been carefully studied. The claims in the application are now claims 15-30, and these claims define patentable subject matter warranting their allowance. Favorable reconsideration and such allowance are respectfully urged.

The Examiner is thanked for the interview with Applicant's representative on August 10, 2009. The Fulterer patent was discussed in relation to claim 15 as proposed. Specifically, the limitation that the adjustment screws are located horizontally along the length of the lower rail was felt by Applicant to distinguish over Fulterer (see the reasons below). However, the Examiner indicated that even though he tended to think that Fulterer would not now be applicable to claim 15, he would not make a commitment at this time, since a new search and further consideration of the prior art of record would need to be made.

In response to the Examiner's rejection of claim 18 under 35 U.S.C. §112, second paragraph, Applicant has amended claim 18 which now includes a positive recitation of the spring that biases the latch to its locking position but that has a protruding portion that can be pushed to unlock the latch. Applicant respectfully submits that this rejection has now been overcome.

Applicant respectfully traverses the prior art rejections of the claims found on pages 3-4 of the Office Action, for the reasons discussed during the interview, which are memorialized below.

The patent to Fulterer is directed to a mounting hardware for a tall-cabinet pullout. It shows in the embodiment of Figs. 10-15 only one adjustment screw (15).

However, with this screw it is not possible to adjust the height of the central frame 40 to a great extent. With this screw, only the angle of the frame in respect to the lower telescopic rail can be adjusted, as the frame is pivoted on the telescoping rail about the axis of a bolt 36 (see col. 7, lines 57-59). The screw 15 of Fulterer, Fig. 12, extends threadedly through the spar 12 that connects the U-shaped profiles 8 (col. 6, lines 35-39 and col. 6, lines 1-2) and engages the underside of rail 16. The rail 16 is pivoted to the pull-out rail 4 about the axis of bolt 36.

Applicant does not agree with the Examiner's statement that adding a second screw would be a mere duplication of the essential working parts of a device. How would a second screw in the embodiment of Figs. 10-15 of Fulterer be incorporated therein? There appears to be no need for a second screw nor would it be apparent to one of ordinary skill in the art how it would be incorporated into the existing structure of Fulterer. If one tried to put a second screw along the length of the rail 4 of Fulterer, it would interfere with operation of the existing screw 15 since the two screws would be at different distances from the pivot point (bolt 36). Besides, the bolt 15 is connected by way of fish plate 38 and bearing disk 32 to the rail 16 (see col. 7, lines 50-51). If an additional screw were turned to try to move the rail 16, the first screw 15 would prevent such movement. Thus, the provision of a second screw in the embodiment of Figs. 10-15 of Fulterer would not have been practical or obvious to one of ordinary skill in the art.

The first embodiment of Fulterer, Figs. 1-9, does utilize two screws 15, Fig. 3. However, these screws are located side by side, not along the length of the rail 4. In this embodiment, the rail 16 is also pivoted about the axis of bolt 14. Again one of ordinary skill in the art would not provide duplicate screws in this embodiment because such screws would

not have been needed. This embodiment also fails to disclose a locking latch that is spring biased and slidably engaged against the screws as set forth in claim 15.

The patent to Fulterer was further modified in the rejection to provide a slidable spring biased latch as taught by Hadary in lieu of the latch provided by members 33, 37 of Fulterer. However, the members 33 and 37 as well as member 38 engaging the underside of disk 32 of Fulterer is used to lock or latch the rail 16 to the rail 4, Figs. 12, 14. First of all, Hadary does not teach a slidable latch engaging screws that are part of a rail. Second, it is not seen how a slidable latch such as shown in Hadary could be used in Fulterer, inasmuch as the rail 16 of Fulterer during assembly is placed such that the bolt 36 slides into the gap between plates 35 of the rail 4 and the spring pressed bolt 33 in the screw 15 snaps into the groove 37 and the plate 38 engages under the disk 32 of the screw. Providing a slidable, spring biased latch on the rail 16 of Fulterer in lieu of the members 33, 37, 38 that somehow would engage under the disk 32 yet the rail 16 still supported on top of the disk 32 would not seem to have been obvious to one of ordinary skill in the art, absent reference to Applicant's disclosure.

Furthermore claim 16 recites that each of the screws has a support surface that engages under the bottom side of the lower frame segment and that the latch engages a recess between the support surfaces and the heads of the screws. The modification of Fulterer by Hadary would not provide support surfaces on the screws that engage under the bottom side of the lower frame segment and that the latch engages a recess between such support surfaces and the heads of the screws, since the bottom of the rail 16 of Fulterer rests on top of the disk 32 of the screw 15, which disk 32 is at the top of the screw 15. Thus there would be no recess between the head and the support surface into which the latch engages.

Appln. No. 10/534,716
Amdt. dated DRAFT
Reply to Office Action of May 11, 2009

Applicant respectfully submits that the claimed invention patentably defines over the cited prior art on the basis of the structural differences between the cited prior art and the claimed invention identified above.

Favorable reconsideration and allowance are earnestly solicited.

Respectfully submitted,

BROWDY AND NEIMARK, P.L.L.C.
Attorneys for Applicant(s)

By /John M. Jillions/
John M. Jillions
Registration No. 57, 146

RSJ:JMJ:me
Telephone No.: (202) 628-5197
Facsimile No.: (202) 737-3528

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